



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 8, 2000

Mr. Robert Morford
WPXI
11 Television Hill
Pittsburgh, PA 15214

RE: MUR 4748

Dear Mr. Morford:

On May 23, 2000, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation, and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

Mr. Morford

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If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Tamara Kapper, the staff member assigned to this matter, at (202) 694-1650.

Sincerely,



Darryl R. Wold
Chairman

Enclosures

Factual and Legal Analysis

Procedures

Designation of Counsel Form

Conciliation Agreement

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Robert Morford

MUR: 4748

I. GENERATION OF MATTER

This MUR arises from a complaint filed by Judith L. Corley, counsel for Citizens for Ron Klink. The complainant alleges that WPXI-TV ("WPXI") and employees of WPXI violated the Federal Election Campaign Act ("the Act") by making an unlawful corporate contribution and by using corporate funds to make a contribution in the name of another.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Act prohibits corporations or any director or officer of a corporation from consenting to a contribution or expenditure by a corporation in connection with any election to a federal political office. 2 U.S.C. § 441b(a). A contribution or expenditure includes "any direct or indirect payment, distribution, loan advance, deposit, or gift of money or any services, or anything of value (except a loan of money by a bank in accordance with applicable laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party organization" 2 U.S.C. § 431(8)(A)(i).

B. Facts

Based on the available information, the idea to make contributions to Congressmen in the WPXI viewing area originated from a memo that the station received from NBC headquarters in New York entitled "Dateline Idea Exchange," which listed stories that WPXI could produce and air during the month of November. Attached to the memo was a document containing nine local story ideas for NBC affiliate stations that was prepared by a NBC Dateline investigative producer

in New York. One of the story ideas suggested to WPXI was an item titled "Members of Congress may be twice as likely to answer your letter when you enclose a check."¹

Robert Morford, WPXI News Director, forwarded the memo and its attachments to the WPXI Executive Producer, Special Projects Unit, for a potential new story by the WPXI News Department. In his capacity as WPXI News Director, Mr. Morford had the final authority to decide whether a news story would be pursued.

Once the idea for the story at issue was approved at a regular WPXI news department staff meeting in January 1998, in which Mr. Morford attended, two (2) sets of the letters were drafted and approved to be sent to the five (5) Congressmen whose districts were in the WPXI viewing area (western Pennsylvania). The Congressmen were Rep. William L. Coyne (PA-14), Rep. Mike Doyle (PA-18), Rep. Philip S. English (PA-21), Rep. Ron Klink (PA-4), and Rep. Frank R. Mascara (PA-20). Two WPXI employees were asked to use their names and home addresses for the letters to the Congressmen so that it would appear that the letters and contributions were from constituents. The WPXI employees agreed to let their names be used. One of the WPXI employees signed and used his home address for the letters that did not contain a contribution. The other WPXI employee agreed to participate and eventually wrote five (5) \$50 checks from her personal checking account to each of the Congressmen, signed her name to the

¹ The concept for the news story apparently originated from a newspaper article that appeared in the *New York Daily News* on September 5, 1995, entitled "'Enclosed is a Contribution' Want Action In D.C.? Don't Forget the Check." According to the article, the newspaper conducted a "unprecedented news sting" report whereby 14 members of Congress from the state of New York were sent letters to test their responsiveness to their constituency. Two letters were sent to each member of Congress asking for information about federal programs; one set of letters contained a cover letter and a contribution for \$50, while the other set of letters contained only a letter. The article concluded that "members of [New York City's] congressional delegation are far more likely to respond to a constituent's request for assistance if it's accompanied by a campaign contribution." *New York Daily News*, Sept. 5, 1995, pg. 7.

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letters and included her home address as the return address for the set of letters that contained the \$50 contributions.

The employee followed WPXI's usual operating procedure for requesting advances and reimbursements for news story related expenses. The employee submitted a WPXI-TV/COX Broadcasting Corp. Check Request Form to the accounting department requesting \$250 for the purpose of "Campaign Contributions to PA Representatives for I-Team Story." Mr. Morford authorized the disbursement by WPXI thereby reimbursing the employee. Two days later, the employee received a \$250 check from WPXI for the story. Then on March 2, 1998, the employee wrote five (5) \$50 contribution checks from her personal checking account, and sent them along with the letters prepared by Ms. Moniot. After the checks were mailed, the employee submitted an expense voucher form to the WPXI Accounting Department to show that she did in fact use the \$250 for the intended purpose. Later, the employee put a stop payment on one of the checks that she wrote because it was never cashed. Mr. Morford authorized the reimbursement by WPXI for the \$25 stop payment fee the employee incurred.

C. Analysis

Mr. Morford, as WPXI News Director, had the authority to decide whether the WPXI News Department would pursue the Congressional response story idea from the Dateline Idea Exchange memo, and the authority to authorize the use of WPXI funds for expenses incurred in connection with the story. Mr. Morford attended the regular January 1998 staff meeting when the Congressional news story was presented to the news staff for approval. Mr. Morford also authorized disbursements by WPXI for expenses incurred by a WPXI staff member in connection with the news story. Therefore, there is reason to believe that Robert Morford violated 2 U.S.C.

§ 441b for consenting to the use of corporate funds for the purpose of making contributions to five Federal candidate committees.

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